

Office of the
Police Complaint
Commissioner

Annual Report
2008

DOC
BC
P5203
B
2008
c.3

British Columbia, Canada



Office of the
Police Complaint Commissioner

British Columbia, Canada

Speaker of the Legislative Assembly
Suite 207
Parliament Buildings
Victoria, BC V8V 1X4

Dear Mr. Speaker:

It is my honour to present to you and to the members of the Legislative Assembly the 2008 Annual Report for the Office of the Police Complaint Commissioner.

This report has been prepared in accordance with section 51.1(1) of the *Police Act*, RSBC 1996, c.367.

Yours truly,

Stan T. Lowe,
Police Complaint Commissioner

Stan T. Lowe,
Police Complaint Commissioner

Victoria Office:
3rd Floor, 756 Fort Street,
PO Box 9895, Stn Prov Govt
Victoria, British Columbia, V8W 9T8
Tel: (250) 356-7458 / Fax: (250) 356-6503

Vancouver Office:
#320 - 1111 Melville Street
Vancouver, British Columbia, V6E 3V6
Tel: (604) 660-2385 / Fax: (604) 660-1223

Toll Free enquiries through *Enquiry BC* at 1-800-663-7867

LEGISLATIVE LIBRARY
VICTORIA, B.C. V8V 1X4 JUN 29 2009



Table of Contents

Commissioner's Message	2
Statement of Purpose & Principles	4
Mandate	5
Organization	7
Budget	7
Code of Professional Conduct	8
Complaint Process:	
Introduction	10
Public Trust Complaints	11
Service or Policy Complaints	12
Internal Discipline Complaints	12
Reconsiderations	13
Public Hearings	13
Reconsiderations in 2008 (case summaries)	15
Public Hearings in 2008 (case summaries)	22
Case Summaries	25
Reports:	
Introduction	39
Complaints received in 2008	40
Complaints reviewed & concluded in 2008	48
Municipal Agencies in British Columbia	60

The Commissioner's Message



The Office of the Police Complaint Commissioner is facing exciting and challenging times in regard to civilian oversight of police complaints in British Columbia. A short time after I took office the Government tabled in the Legislature substantial revisions to the *Police Act*. These revisions reflected a majority of the changes recommended by Josiah Wood, Q.C., in his "Report on the Police Complaint Process in British Columbia", released in February 2007.

Although the legislation was postponed in light of the provincial election, the introduction of "Bill 6 – 2009 Police (Misconduct, Complaints, Investigations, Discipline and Proceedings) Amendment Act", provided all stakeholders an opportunity to review and reflect on the changes proposed by government. Generally speaking the revisions significantly enhanced the ability of the Office of the Police Complaint Commissioner (OPCC) to conduct oversight of police complaints in British Columbia.

Our Office has been busy analyzing and planning for these legislative changes as it is expected that the OPCC will take on a leadership role in the shepherding of the proposed changes to the *Police Act*. We intend to meet those expectations and will work diligently to ensure the legislative changes achieve the concerns they were designed to address.

Some of the significant changes proposed in Bill 6 include:

- Improvement upon the powers of the OPCC to intervene during the course of an investigation, as well as engage in contemporaneous oversight of a police complaint.
- Improve upon the information available to a complainant, as well as their ability to be heard in the process.
- Police officers under investigation will be bound by a duty to cooperate, requiring them to provide statements and submit to interviews by investigators.

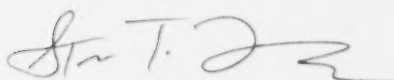
- Police officers who retire or resign will continue to remain under the jurisdiction of the Act, and any discipline imposed would be reflected on their service record.
- Increases in the measures available for discipline as well as the range of penalties available.
- Procedural improvements for reviewing complaints which are more efficient and economic alternatives to a public hearing.

During my short time as Commissioner, I have enjoyed the benefit of a staff committed to professionalism and public service. We are in a process of developing strategies and guidelines, which we will incorporate into our planning for the future. We have developed and incorporated our "Statement of Principles" into all the work that we do. These guiding principles ensure that we continue to act fairly and independently in arriving at principled decisions, while remaining committed to excellence in public service.

***"A well informed public is
the cornerstone of a
sturdy and healthy
society."***

A main priority of the OPCC is to improve upon the transparency and accountability of civilian oversight of police complaints in British Columbia. We also recognize the importance of communications with the public. A well informed public is the cornerstone of a sturdy and healthy society. We intend to improve upon the quality of the information we provide to the public, as well as the frequency in which we make this information available. Watch for changes to our website in the upcoming year to reflect our commitment to improved communications.

In the coming year our focus will be to assist in the smooth transition to the new provisions of the *Police Act*, as well as improving our public outreach initiatives to promote a better understanding of the police complaint process in British Columbia. This annual report reflects our first steps toward improving the nature and quality of the information that we provide to the public.



Stan T. Lowe,
Police Complaint Commissioner

OPCC Statements of Purpose & Principles

The Office of the Police Complaint Commissioner provides impartial civilian oversight of complaints regarding municipal police. We ensure thorough and competent investigations of police complaints and fair adjudication with respect to all parties. We facilitate quality policing and public trust in law enforcement and the complaint process.

Statement of Purpose

The Office of the Police Complaint Commissioner shall be governed by four fundamental principles:

Fairness

Statement of Principles

We act fairly, objectively and impartially in our oversight of the complaint process involving municipal police in British Columbia.

Independent Oversight

As an independent office we serve the public free from any improper influence or interference.

Principled

We provide vigilant civilian oversight to enhance transparency and accountability while ensuring a principled approach in arriving at decisions.

Commitment to Excellence

We strive for excellence in our work while maintaining the highest ethical standards.

The OPCC's Mandate

The Office of the Police Complaint Commissioner (OPCC) is an independent agency established under Part 9 of the *Police Act*, RSBC 1996, c.367, to ensure that complaints involving municipal police in British Columbia are handled fairly and impartially.

The OPCC is responsible for overseeing complaints regarding the conduct of municipal police officers within the Province of British Columbia. The following police departments/agencies fall within our mandate:

Abbotsford Police Department	Oak Bay Police Department
Central Saanich Police Service	Port Moody Police Department
BC Combined Forces Special Enforcement Unit	Saanich Police Department
Delta Police Department	Stl'atl'imx Tribal Police
South Coast British Columbia Transportation Authority Police Service	Vancouver Police Department
Nelson Police Department	Victoria Police Department
New Westminster Police Service	West Vancouver Police Department

The OPCC provides an accessible way for the public to complain to an independent body about the conduct of any municipal police officer or department. The OPCC ensures that the complaint process is conducted with impartiality and fairness, to both citizens and police officers.

The Police Complaint Commissioner does not have jurisdiction over the handling of complaints against members of the Royal Canadian Mounted Police (RCMP). The RCMP has a federal Commission to handle complaints against their members. Complaints received at the OPCC with respect to RCMP officers are forwarded to the Commission for Public Complaints Against the RCMP.

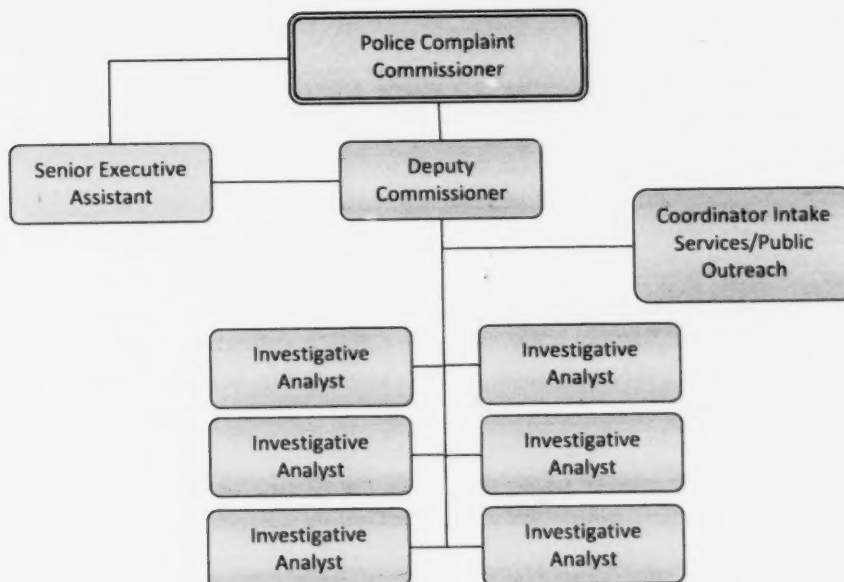
The Police Complaint Commissioner is Required to ...

- Oversee the handling of complaints about municipal police officers, police services or policies.
- Receive complaints from any source.
- Maintain a record of those complaints and their dispositions.
- Compile statistical information on complaints against municipal police officers, police services or policies.
- Report regularly to the public about complaints, complaint dispositions and the complaint process.
- Inform and assist the public, Complainants, police officers, police boards and adjudicators with the complaint process.
- Periodically review the complaint process and make recommendations for the improvement of that process in the Annual Report.
- Establish procedures for mediation and guidelines for informal resolutions of Public Trust complaints.

The Police Complaint Commissioner May ...

- Engage in or commission research on any matter relating to the police complaint process.
- Make recommendations to police boards about policies or procedures on factors that gave rise to a complaint.
- Prepare guidelines about the process of receiving complaints.
- Make recommendations to the Director of Police Services or the Solicitor General that a review or audit be undertaken to assist police in developing training designed to prevent the reoccurrence of problems revealed by the complaint process.
- Make recommendations to the Solicitor General for a public inquiry under the *Provincial Inquiry Act*.
- Refer a complaint to Crown Counsel for possible criminal prosecution of a police officer

Organization

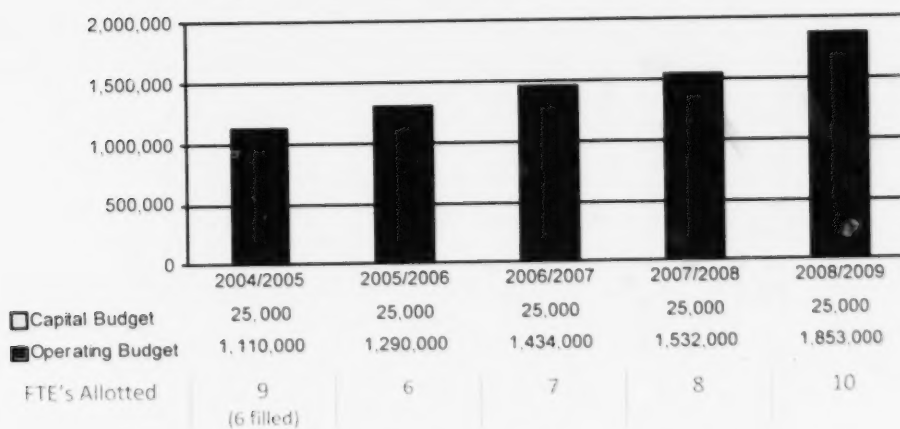


Budget

Fiscal Year ending March 31st, 2009:

Total Operating Budget: \$ 1,853,000.00
Total Capital Budget: \$ 25,000.00

TOTAL: \$1,878,000.00



Code of Professional Conduct

The Police Act *Code of Professional Conduct Regulation* (B.C. Reg. 205/98) establishes core values and affirms that all police officers:

*Accept the duty to act without favour
or personal advantage;*

*Are committed to treating all persons or classes of
persons equally, regardless of race, colour, ancestry,
place of origin, political belief, religion, marital status,
family status, physical or mental disability, sex, sexual
orientation, age or economic and social status; and*

*Agree to uphold rights and freedoms
guaranteed or protected by law.*

The *Code of Professional Conduct Regulation* provides guidance to police officers to assist them in delivering fair, impartial and effective police services to the communities that they serve. The *Code* also sets out guidelines concerning appropriate disciplinary or corrective measures for officers whose performance or conduct does not meet the expected quality and standards.

The *Code of Professional Conduct Regulation* identifies the following 12 potential disciplinary defaults:

- Discreditable conduct
- Neglect of duty
- Deceit
- Improper disclosure of information
- Corrupt practice
- Abuse of authority
- Improper use and care of firearms
- Damage to police property
- Misuse of intoxicating liquor or drugs in a manner prejudicial to duty

- Conduct constituting an offence
- Being a party to a disciplinary default
- Improper off-duty conduct

The *Code* also provides guidance in imposing appropriate corrective or disciplinary measures. Where circumstances are appropriate, corrective measures are preferred over punitive measures, but only if by doing so the organizational effectiveness of the department and the public confidence in the administration of police discipline is not compromised.

The *Code* lists the following corrective and disciplinary measures that a Discipline Authority may impose. The Discipline Authority may also impose more than one measure.

- Verbal reprimand
- Written reprimand
- Direction to undertake professional counselling
- Direction to undertake special training or re-training
- Direction to work under close supervision
- Suspension without pay (up to 5 scheduled working days)
- Transfer or re-assignment
- Reduction in rank
- Dismissal



The Complaint Process

Anyone who has concerns about the actions or behaviour of a municipal police officer, or about the services provided by a department, may make a complaint.

Who Can Make a Complaint?

A complaint may be made orally or in writing by contacting either the OPCC (in person, by phone, by mail, by fax or by email) or at any municipal police department's information counter. The *Police Act* requires a Complainant complete a Form 1 Record of Complaint. Assistance in completing this form is available either through our office, or the Professional Standards Section of the police department. Blank Form 1 Records of Complaint and information packages may be obtained through the OPCC or any municipal police department in the Province.

How Do I Make a Complaint?

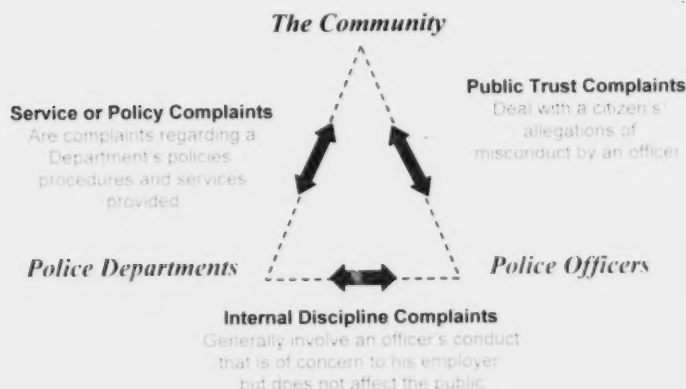
If the complaint is received at the OPCC a copy is forwarded to the Chief Constable of the department where the complaint originated. If a complaint is made at a police department, a copy of the complaint is similarly forwarded to the OPCC.

What Happens to my Complaint?

The complaint is then assigned to the department's Professional Standards member for investigation. The investigator must provide the Complainant, the Respondent officer and the OPCC with periodic reports on the progress of their investigation. The investigation must be completed within 6 months of the date the complaint was first received, unless an extension has been granted by the Commissioner.

There are 3 types of complaints under Part 9 of the *Police Act*:

Characterizing the Complaint



**Public Trust
Complaints**

Approximately **96%** of the *Police Act* complaints received by the OPCC in 2008 fell under the Public Trust category. Unless the Complainant chooses to withdraw their complaint, a Public Trust complaint may be resolved in one of three ways:

Informal Resolution

A complaint may be informally resolved by the Complainant and the Respondent with the assistance of the Investigator or a professional mediator. A complaint is considered successfully resolved when both parties have signed a letter indicating their agreement. If neither party reconsiders their decision within 10 days, the complaint is concluded as "Informally Resolved".

Summary Dismissal

A Public Trust complaint may be dismissed by the Discipline Authority (the Chief Constable of the Respondent's department) if, following a preliminary review of the allegations it is determined that:

- there is no reasonable likelihood that further investigation will reveal evidence that the officer committed a default;
- the complaint concerns an event that took place more than 12 months prior to the filing of the complaint; and/or
- the allegations have no air of reality or are deemed to be vexatious

If the Complainant disagrees with the Discipline Authority's decision, he or she may request a review of the decision by the OPCC. The Commissioner may confirm the Summary Dismissal or order an investigation into the allegations. Regardless of whether a request for a review has been received, OPCC Investigative Analysts review all decisions in order to ensure the integrity of the complaint process.

Investigation & Conclusion

A complaint made against an officer will be thoroughly investigated if it is not informally resolved or summarily dismissed. In some circumstances, a

complaint may be investigated by an external police agency, but only by order of the Police Complaint Commissioner or by request of the Discipline Authority.

The investigation into a complaint must be completed within six months after the date the complaint was received. The Police Complaint Commissioner may grant an extension if the investigation is unusually complex or new investigative leads are discovered that make it necessary in the public interest to extend the investigation. If the Complainant or the Respondent is not satisfied with the results of the investigation, he or she may apply to the Police Complaint Commissioner for a Public Hearing.

Service or Policy complaints are complaints about the policies, procedures and services provided by a municipal police department and affect the relationship between the police department and the community. For example, a Service or Policy complaint may be with respect to an insufficient number of police officers assigned to a public event.

Service or Policy Complaints

Service or Policy complaints are the responsibility of each municipal department's Police Board. The Police Board must advise the Director of Police Services, the Police Complaint Commissioner and the Complainant of the results, including what course of action, if any, was taken. The Police Board must also provide a summary of the results of any investigation or study.

The Police Complaint Commissioner may make recommendations to the board, but he cannot direct the board to take a particular course of action regarding a Service or Policy complaint.

With some procedural exceptions, Internal Discipline complaints concern police misconduct that is of concern to the officer's employer, but does not affect the officer's relationship with the public. An example of an Internal Discipline complaint may involve a police officer who did not properly secure his or her firearm in the police locker. The principles of labour law apply to the investigation and processing of Internal Discipline complaints. The Public Trust complaint process does not apply to this category of complaints.

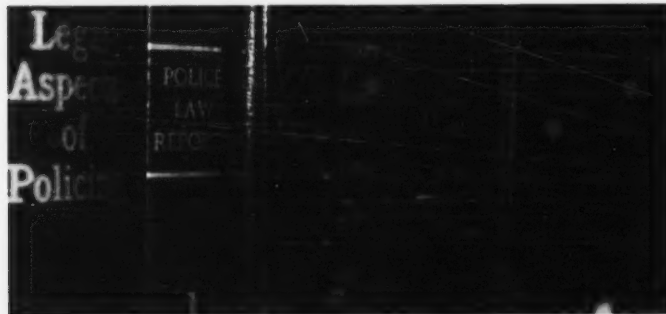
Internal Discipline Complaints

Reconsiderations

The current *Police Act* offers only one remedy to a Complainant or Respondent who is dissatisfied with the Discipline Authority's decision – to request the Police Complaint Commissioner arrange a Public Hearing into the matter. Similarly, if the Commissioner is not satisfied with a decision or the appropriateness of the corrective or disciplinary measures imposed, the only legislated recourse is to proceed to a Public Hearing.

Since 2006 the OPCC has referred several decisions back to a Discipline Authority where the Commissioner is of the view that the original decision of the Discipline Authority failed to address a specific issue or misinterpreted a point of law. This premise is based on an administrative law principal set out in a Supreme Court of Canada decision, *Chandler v Alberta Association of Architects*, [1982] 2 S.C.R. 848. The OPCC holds the view that although not specifically included in Part 9 of the *Police Act*, the intent of the *Act* is to ensure that a full and proper decision be made by a Discipline Authority, prior to the Commissioner making any final decisions regarding whether to proceed to a Public Hearing.

Further in this report is a summary of files that have been sent back for reconsideration in 2008.



Public Hearings

As stated earlier, following the conclusion of an investigation into a Public Trust complaint, if the Complainant is not satisfied with the results, he or she may request a Public Hearing.

If the Respondent officer has received a disciplinary measure more severe than a verbal reprimand, he or she has an automatic right to a Public Hearing upon request.

The Police Complaint Commissioner may also arrange a Public Hearing without having received a request from either the Complainant or the Respondent officer if the Police Complaint Commissioner believes that the Public Hearing is necessary in the public interest, and the matter not appropriate for reconsideration.

Upon receiving a request for a Public Hearing, the Police Complaint Commissioner must consider the following factors before making the decision whether to arrange a Public Hearing:

- The seriousness of the complaint.
- The seriousness of the harm done.
- Whether a Public Hearing is needed to discover the truth.
- Whether there was a flaw in the investigation conducted by the municipal police department, the measures proposed are inappropriate or inadequate, or the Discipline Authority's interpretation of the *Code of Professional Conduct* was incorrect.
- Whether a Public Hearing is necessary to restore or preserve public confidence in the police as well as the complaint process.

Once the Police Complaint Commissioner has determined that a Public Hearing is necessary, the Commissioner must appoint an Adjudicator to preside over the hearing. The Associate Chief Justice of the Supreme Court of British Columbia nominates a retired justice of the Supreme Court or a retired judge of the Provincial Court of British Columbia. The Commissioner then appoints that individual as Adjudicator for the purposes of that particular Public Hearing.

The Commissioner appoints Commission Counsel who may, at his discretion, call any witness who has relevant evidence to give and may also introduce into evidence any record, including any record of the proceedings, concerning the complaint up to the date of the hearing.

The Adjudicator, after hearing all the evidence, must decide if the alleged disciplinary default has been proven on the civil standard of proof – that is, on a balance of probability. If the disciplinary default is proven, the Adjudicator may impose a disciplinary or corrective measure, or may confirm, increase, or reduce the disciplinary or corrective measures already proposed by the Discipline Authority.

Once a decision has been reached at the Public Hearing, the only appeal available to that decision is to the Court of Appeal on questions of law.

The rules governing Public Hearings and the OPCC policy regarding the ordering of a Public Hearing may be found on the OPCC website at www.opcc.bc.ca.



Reconsiderations in 2008

Discreditable Conduct

Police Pursuit Resulting In a Fatal Motor Vehicle Accident (OPCC File 2007-3620)

In August of 2006 a police pursuit resulted in a fatal motor vehicle accident. A departmental Managerial Review and a Pursuit Review Board report recommended discipline and training for certain members involved in the pursuit. The *Police Act* investigation, however, concluded that the actions of the Respondents adhered to departmental regulations and procedures, the *Motor Vehicle Act* and current police pursuit tactics. The Discipline Authority determined the alleged disciplinary defaults were “unsubstantiated”.

In February of 2008, after completing a comprehensive analysis of the *Police Act* investigation, the Commissioner concluded that the Discipline Authority had reached an

erroneous conclusion in unsubstantiating the allegations. The Commissioner invited the Discipline Authority to undertake a further review and reconsider his decision; noting that both the Management Review and the Pursuit Review Board found that officers disobeyed pursuit termination guidelines by following the suspect vehicle, and that the Management Review concluded that the Respondents should not have gone into the jurisdiction where the fatal collision subsequently occurred.

The Discipline Authority declined to reconsider the earlier decision and the matter has now proceeded to a Public Hearing.

In September of 2005, an officer, while struggling with the Complainant to place him under arrest, discharged his firearm. The Complainant was shot in the abdomen and made a full recovery. The officer stated he believed he had reached for his Taser rather than his firearm.

Abuse of Authority

**Non-Fatal Police
Shooting
(OPCC File 2005-3009)**

The Discipline Authority determined that the officer had not committed a default, relying upon section 17 of the *Code of Professional Conduct Regulation* that sets out the requirement that the officer must have committed the act either intentionally or recklessly.

It was the Commissioner's view that as the Discipline Authority did not consider the issue of negligence and focused entirely on intent and recklessness, it was open to the Discipline Authority to reconsider his decision.

Following further investigation, the Discipline Authority issued a Notice of Discipline Proceedings in which the allegation of Abuse of Authority was substantiated, proposing dismissal. The officer involved resigned from the department prior to the commencement of the proceedings.

The complaint involved allegations regarding an officer's failure to conduct an adequate and timely investigation into a co-jurisdictional historical sexual assault. Following an investigation, the Discipline Authority determined that the officer had not committed a disciplinary default.

Neglect of Duty

**Inadequate investigation
(OPCC File 2005-2936)**

The Commissioner disagreed with the Discipline Authority's decision based on the underlying findings and reasons set out in the investigation report. The Discipline Authority's decision did not fully address the issue of whether the officer's actions were reckless and below the requisite professional standard. The Discipline Authority was invited to reconsider his decision and following a review, agreed that Neglect of Duty had been substantiated based on the evidence. The officer received Managerial Advice.

**Improper Off-Duty Conduct
Deceit**

(OPCC File 2005-2817)

While off-duty, an officer committed a Hit and Run. The officer reported that he collided with a parked vehicle, but did not have a pen with which to leave his particulars nor a cellular phone to report the accident. He called ICBC the following morning and reported the accident. This satisfied the requirement for reporting an accident and ceased the criminal aspect of the investigation.

The officer later provided a statement to the ICBC investigator in which he indicated he had not consumed any alcohol prior to the accident. In a statement he provided to police, he admitted that he had consumed three alcoholic beverages before the accident and had been untruthful in his statement to ICBC.

The Discipline Authority substantiated the disciplinary default of Improper Off-Duty Conduct and issued a Written Reprimand.

Following a review of the investigation, the Commissioner was concerned that the original deceit of the officer and the aggravating circumstances of his continuing deceit and conduct during the *Police Act* investigation was not adequately addressed and considered. The matter was sent back for reconsideration by the Discipline Authority.

A supplemental investigation resulted in 2 counts of Deceit being substantiated; one relating to the false statement to the ICBC investigator; and one relating to the officer's statement to the police investigator. In addition to the earlier Improper Off-Duty Conduct for which the officer received a Written Reprimand, the officer also received a 2-day and 1-day suspension without pay with respect to the Deceit defaults.

This matter involves the suicide death of a mentally ill gentleman in September of 2006. While in his apartment, the gentleman slashed his left wrist and died as police were attending to the scene and attempting to enter the apartment. The police attended nearly 90 minutes after the Respondent first became aware of a 911 call from the gentleman's aunt advising police of her nephew's suicide threat and about 40 minutes after the gentleman himself called 911 to advise that he had cut his wrist.

**Neglect of Duty
Discreditable Conduct**

***Inadequate response &
inappropriate comments
(OPCC File 2006-3463)***

A key issue in the *Police Act* investigation was whether the Respondent neglected his duty to respond or direct officers under his command to respond to the call in a timely manner. An initial Final Investigation Report substantiated Neglect of Duty and a Discipline Hearing was arranged. However, before the hearing took place, a second Final Investigation Report was issued, in which Neglect of Duty was removed and a default of Discreditable Conduct (relating to inappropriate comments made by the Sergeant) was substantiated. The officer received a 3-day suspension without pay.

The Commissioner disagreed with the Discipline Authority's decision regarding the removal of the Neglect of Duty and that the reasons for doing so were based on a flawed understanding of s. 17 of the *Code of Professional Conduct Regulation* that deals with the mental element of a default. The file was returned to the Discipline Authority for his reconsideration.

Following a comprehensive review, the Discipline Authority concluded that Neglect of Duty had been proven relating to the Respondent's initial response to the 911 call. The officer received a 6-month reduction in rank. With respect to the Discreditable Conduct, the officer received a Written Reprimand.

An officer, while off-duty and intoxicated, was involved in a motor vehicle accident. The officer then fled the scene on foot. He was subsequently arrested by the RCMP and criminally charged. It was determined that the Respondent made misleading statements on 3 occasions to the investigating officers.

Improper Off-Duty Conduct

***Unreasonable Discipline
(OPCC File 2006-3518)***

Following a *Police Act* investigation, the Discipline Authority substantiated Improper Off-Duty Conduct and following a Pre-Hearing Conference, imposed a Written Reprimand.

The Commissioner, following a comprehensive review of the file, determined the imposition of a Written Reprimand in the circumstances was fundamentally inconsistent with principals and guidelines set out in the *Code of Professional Conduct Regulation*. As a result, the Commissioner requested the Discipline Authority reconsider his final decision.

Following a re-examination of the evidence, the Discipline Authority increased the penalty to a 5-day suspension without pay.

Abuse of Authority

***Arrested Persons for
Being in a State of
Intoxication in a Public
Place Right to Access
Legal Counsel
(OPCC File 2007-3659)***

A Complainant was arrested and held in custody for being in a state of intoxication in a public place. Allegations involved excessive force, rude and discourteous conduct by the officers as well as a denial of the Complainant's right to access legal counsel. The Discipline Authority concluded none of the allegations were substantiated by the evidence.

The OPCC agreed with the Discipline Authority's conclusions with respect to the allegations of excessive force and rude and discourteous conduct; however, disagreed with respect to the finding regarding the Complainant's access to legal counsel. The Commissioner was of the view that the Discipline Authority's decision was based either on a fundamental misunderstanding of the law, or a demonstrably unreasonable assessment of the facts. The Commissioner requested the Discipline Authority reconsider his decision with respect to the issue of the refusal to allow the Complainant access to counsel.

The Discipline Authority reconsidered his decision and substantiated the allegation of Neglect of Duty. The officers received Managerial Advice. In addition, department wide training was conducted relating to the legal rights of persons held on SIPP charges, and a review of existing departmental policy was undertaken to ensure it met legal requirements.

Deceit

***Allegations of Lying
Under Oath
(OPCC File 2006-3246)***

In a civil tort jury trial arising from a November 2002 arrest of the Plaintiff by the Respondent officer that resulted in the Plaintiff suffering an injury to her left eye, the Justice, in her reasons for judgment, made clear statements that two officers had lied under oath in a court of law.

A *Police Act* investigation was conducted into the actions of the two officers, following which the Discipline Authority concluded that the officers had not committed "Deceit", but rather "Neglect of Duty" for inadequate preparation for court. The Discipline Authority further determined that no corrective or disciplinary measures were warranted in the circumstances.

Following a review by the OPCC, the Commissioner concluded that the Discipline Authority committed a fundamental legal error in his assessment of the facts. The Discipline Authority was invited to reconsider his decision.

The Discipline Authority re-examined the investigation's findings and substantiated the default of "Deceit" rather than "Neglect of Duty". Discipline proceedings are pending.

A *Police Act* investigation was conducted into the Respondent officer's investigation of an alleged sexual assault. The allegations were that the officer's investigation was deficient (Neglect of Duty) and that he had made inappropriate comments during a telephone discussion with the Complainant (Discreditable Conduct).

Discreditable Conduct

***Inappropriate Behaviour
(OPCC File 2007-3713)***

The Discipline Authority had concluded that neither Neglect of Duty nor Discreditable Conduct had been substantiated by the evidence.

The Commissioner disagreed with the finding of unsubstantiated with respect to the Discreditable Conduct allegation. The Commissioner determined that the Discipline Authority failed to address the required elements of Discreditable Conduct and, accordingly, has requested the Discipline Authority to reconsider his decision.

The Discipline Authority conducted further investigation and obtained an independent legal opinion. Ultimately the Discipline Authority found that in applying the civil standard of proof, on the balance of probabilities, that the officer did commit Discreditable Conduct. The Discipline Authority also determined that, in the circumstances, neither corrective nor disciplinary measures were warranted.

Corrupt Practice

Unauthorized Searches of Police Database – Appropriate Discipline (OPCC File 2007-3889)

A *Police Act* investigation determined that an officer had conducted 20 unauthorized police database queries over a 4 year period. The queries were related to the officer's ex-spouse. The Discipline Authority substantiated "Corrupt Practice" and at a Pre-Hearing Conference imposed a Verbal Reprimand against the officer.

The Commissioner disagreed with the level of discipline imposed and was of the view that it was unreasonable to conclude that a verbal reprimand was the appropriate disciplinary outcome considering the officer's level of experience, job knowledge and given the objective seriousness and number of defaults in question. As a result, the Discipline Authority was asked to reconsider her decision.

Following a review of the matter, the Discipline Authority acknowledged that in her original decision a disproportionate weight may have been placed on the officer's personal circumstances that caused the lapse in judgment, the officer's record of employment and acceptance of responsibility. The Discipline Authority also noted that insufficient weight was placed on the number of breaches, the length of time over which they occurred, and the adverse effect on the public's confidence in the police department's ability to safeguard personal and private information. The Discipline Authority increased the penalty to a 1-day suspension without pay.

Abuse of Authority

Use of Unnecessary Force Appropriate Discipline (OPCC File 2007-3989)

A public trust investigation was conducted into allegations that while the officer was processing the Complainant's arrest and arranging for his release, an altercation occurred involving the officer's use of profanity and escalating to the officer using physical force against the Complainant. The allegations were that the officer used profane and abusive language (Abuse of Authority) and that he used unnecessary force in that he choked the Complainant and delivered two knee strikes to the Complainant's rib area (Abuse of Authority).

The Discipline Authority substantiated both counts of Abuse of Authority and following a Pre-Hearing Conference, the officer received a Written Reprimand incorporating both defaults.

The Commissioner, following a review of the file, determined that the Discipline Authority failed to consider the officer's use of knee strikes and as a result the proposed penalty was inappropriate and inadequate. The Discipline Authority was requested to reconsider the disciplinary measures.

Following a re-examination of the evidence, the Discipline Authority agreed with the Commissioner and imposed a 2-day suspension without pay as well as directing the officer to review use of force techniques with the department's instructor.



Public Hearings in 2008

In January of 2008, the Commissioner arranged a Public Hearing into the actions of Victoria Police Department officer, Constable Greg Smith.

PH 2008-01

*Cst. Greg Smith
Victoria Police Department*

A formal complaint was received from Mr. Mark McKay, on behalf of his son Thomas McKay, alleging that Thomas McKay received serious head injuries while at the Victoria Police cell block during the early morning hours of Friday, April 23rd, 2004. This complaint was characterized as a Public Trust complaint pursuant to the *Police Act* of British Columbia and Constable Greg Smith was identified as a Respondent officer.

Following an investigation, on December 7th, 2006 the Deputy Chief Constable, acting in his capacity as Discipline Authority for the Victoria Police Department, determined that the allegation of Abuse of Authority against Constable Smith was not substantiated and accordingly that disciplinary or corrective measures were not applicable.

On December 28th, 2006, based on a review conducted by OPCC staff, the Commissioner wrote the Discipline Authority requesting that further investigation be conducted into the

complaint and that the original decision by the Victoria Police to not substantiate the complaint be reconsidered. In November 2007 the Interim Chief Constable, having conducted the further investigation, concluded that he would not reconsider his original decision that Constable Smith committed the disciplinary default of Abuse of Authority.

The Commissioner determined that it is necessary in the public interest to arrange for a public hearing pursuant to Section 60(4) of the Police Act into the conduct of Constable Smith.

A Public Hearing was held before Adjudicator Robert Bruce Hutchison, who concluded on January 28, 2009, that Constable Smith had used more force than was necessary in the takedown of Thomas McKay.

The Honourable Mr. Hutchison stated in his Reasons for Decision,

I have mentioned the split second that Constable Smith strayed from what appears in the video to be highly professional demeanor. His transgression is not a case of police brutality. It was an instantaneous lapse which, for an ordinary citizen, would have taken place far more quickly, but probably with less restraint. While the ultimate result was disastrous, I can only add that the officials who, until after the event, disregarded previous warnings concerning the concrete floor, share in that result.

The public interest represented by the Police Complaints Commissioner however, must be ever vigilant at the straying, even for a split second, from proper police behaviour. There is far too much violence taking place in our society these days and there is no need for it to permeate police culture, even in brief and isolated occurrences.

A complete copy of the Adjudicator's Reasons for Decision is available on the OPCC website (www.opcc.bc.ca).

Submissions and the decision on appropriate disciplinary and/or corrective measures were not concluded at the time of this report.

In December 2008, the Commissioner arranged for two Public Hearings into the actions of West Vancouver Police Officers, Inspector Robert Fontaine and Staff Sergeant Doug Bruce.

PH 2008-02 & PH 2008-03

The allegations arose as a result of the Respondent officers' handling of allegations and investigation of the off-duty conduct of a West Vancouver Police officer.

*Inspector Robert Fontaine
Staff Sergeant Doug Bruce
West Vancouver Police
Department*

Following the external investigation conducted by the Vancouver Police Professional Standards Section, the Discipline Authority notified the Respondents, Inspector Robert Fontaine and Staff Sergeant Doug Bruce, on the 17th of December 2007 that they would face a Disciplinary Hearing regarding disciplinary defaults alleged against them for various breaches of the *Code of Professional Conduct*, namely neglect of duty and deceit.

Upon application of counsel for the Respondent officers, the presiding Discipline Authority recused himself with respect to these matters. The Chief Constable of the Port Moody Police Department agreed to act as the delegated Discipline Authority.

A Disciplinary Hearing was scheduled for November 14, 2008; however, the Discipline Authority cancelled the Hearing after being advised that both officers had resigned from the West Vancouver Police Department. In the Discipline Authority's opinion, there was no utility in proceeding with a disciplinary hearing in the circumstances.

The Commissioner determined that the public interest required a Public Hearing be held into the matter and arranged for two Public Hearings.

In February of 2009, the Commissioner formally withdrew the Public Hearings with respect to Retired Inspector Robert Fontaine and Retired Staff Sergeant Doug Bruce. Counsel for the Respondent officers had argued that the Commissioner no longer had legal jurisdiction to conduct a Public Hearing based on the fact that both respondents had retired. The Commissioner concluded that while there may be a contrary argument that an Adjudicator could conduct a Public Hearing, the anticipated legal applications would delay matters indefinitely and would likely incur a large expenditure of public funds for legal costs, with no certainty of success. The Commissioner, in his reasons for withdrawing the Public Hearings (a full of copy of which is available on the OPCC website at www.opcc.bc.ca) stated that even if the

Respondents were proven to have committed any or all of the alleged defaults and received the maximum discipline – dismissal, their retirement has the same practical effect.



Case Summaries

The following case summaries are intended to provide a cross-section of the complaints concluded during the reporting period of January 1st to December 31st, 2008. Complaints may be concluded in a variety of ways and the following is a sample of those dispositions, from informal resolutions to those involving disciplinary action.

All complaint dispositions are recorded in the Respondent officer's Service Record of Discipline and the corrective or disciplinary measures may range from none being warranted through to dismissal.

With the exception of those cases that proceeded to Public Hearing, the disciplinary or corrective measures imposed reflect decisions made by the individual police department that employs the Respondent officer. All complaint investigations and dispositions are reviewed by the OPCC to determine whether further investigation is necessary, or if it is in the public interest to arrange a Public Hearing.

Public Trust	The Complainant was walking when he was approached by the Respondents. The Respondents had been sitting in their cruiser and enquired if the Complainant had been drinking. The Complainant replied, "yes" and asked if they had a breathalyzer. The Respondents did not and advised the Complainant that they would be taking him to the department. The Complainant refused. The Complainant
Unlawful Detention	
Excessive Force	
Neglect of Duty	
(2008-4020)	

alleges that one officer pushed him around, while another officer kned him. The Complainant was handcuffed and placed in the back of the police cruiser. A third police officer attended, bringing with him a breathalyzer (Roadside Screening Device). The Complainant alleges that there were further taunts by the Respondents. The Complainant assumed that the breathalyzer (RSD) results were negative because he was then released.

The investigation revealed that the Complainant has a motor neural disorder that affects his speech and balance, and his hands tend to shake. When the Complainant was approached by the Respondents, because of his slurred speech, demeanor and belligerent nature, one Respondent thought the Complainant was drunk. The Respondent had asked if the Complainant had a medical condition, wherein the Complainant answered that she [the Respondent] should already know this. When the second Respondent arrived on scene, and the Complainant was told he was being detained, the situation deteriorated with the Complainant resisting to be put in handcuffs and the first Respondent delivering two knee strikes to the thigh. The Complainant was placed in the back of the police cruiser until the third officer arrived with breathalyzer equipment. The Complainant passed the breathalyzer and was released.

An attempt at mediation was made but the Complainant and the Respondents could not come to a resolution. With respect to the allegations of unlawful detention and excessive force, the allegations were unsubstantiated. With respect to the service and policy component of this complaint, failing to submit a "subject behavior report" as per department policy, that allegation was substantiated with advice as to future conduct.

A senior officer noticed the Respondent officer's locker in the men's locker room was left unlocked and was unattended. The senior officer also observed the Respondent's issue firearm sitting on the locker shelf. This matter was processed through the Internal Discipline stream. The default of Improper Use or Care of a Firearm was substantiated and the Respondent officer received a verbal reprimand.

Internal Discipline

*Improper Use & Care of Firearm
(2008-4039)*

Public Trust

Abuse of Authority
(2008-4039)

The Complainant alleged that he was issued a ticket for not wearing a bike helmet. When the Complainant raised his hand, the Respondent threw him to the ground, handcuffed him and put him in the back of the police vehicle for resisting arrest. The Complainant suffered scratches and bruising to his forehead, hands and knees.

The Complainant and the Respondent agreed to **informally resolve** this complaint through a professional mediator and the session was successful. The Complainant appreciated being able to share his perspective of the situation, and to hear the Respondent's perspective. Even though both parties respectfully disagreed, they agreed that they would like to have a cordial interaction should they meet up with each other again.

While the OPCC file may reflect more information, in cases of mediation we have to ensure nothing appears in the Annual Report other than what appears on the signed mediation resolution document.

Public Trust

Abuse of Authority
(2008-4043)

The Complainant alleged that he was on a transit bus, trying to get directions to his lawyer's office. The bus driver advised the Complainant to speak with a transit employee. The Complainant got off the bus and spoke to the employee, who then called the police to help the Complainant. When the police arrived, the Complainant alleged that they had assaulted him, took him to the police cells where he was held for twelve hours without food or water.

The investigation revealed that the bus driver had called his supervisor because the Complainant was being loud, obnoxious and bothering fellow passengers. Once the Complainant was off the bus, he became more agitated and the transit supervisor called the police. When the three Respondents arrived, they found the Complainant extremely intoxicated, causing a disturbance. The Respondent was assisted by the two other Respondents. Since the Complainant's right arm was in a cast, the one Respondent handcuffed the Complainant's left arm to his belt, allowing movement of his right arm. Very little force was used in apprehending the Complainant.

The Discipline Authority found that the Respondents had used the appropriate amount of force to avoid injuring the

Complainant. The Respondents' actions were in accordance with the *Police Act* and the department's policy.

Regarding the allegations that the Complainant was held for 12 hours without food or water, the investigation found no evidence to support this claim.

The OPCC reviewed the investigation and confirmed the Discipline Authority's decision that the allegations be unsubstantiated.

[REDACTED]

The OPCC received a call from the department that the Respondent had accidentally shot himself in the hand while at the range. The RCMP conducted a criminal investigation. The incident was characterized as internal discipline. The OPCC opened a file and a *Police Act* investigation commenced.

Internal Discipline

***Improper Use & Care of a Firearm
(2008-4219)***

The investigation revealed that the Respondent had attended the shooting range for the purposes of re-qualifying with his department issued pistol. The Respondent had successfully completed his requisite qualifications. At the conclusion of the course-of-fire, the Respondent was directed to empty and "safe" his pistol.

The Respondent stripped his pistol for purposes of cleaning (which occurred subsequent to loading his pistol with ammunition), but he did not visually and physically inspect the chamber for live rounds, and in missing this safety step, a live round was discharged when he pulled the trigger in order to release his slide from the receiver.

The OPCC analyst after reviewing the various reports, the RCMP criminal investigation, duty reports and witness statements, confirmed the Discipline Authority's decision to substantiate the allegation. The Respondent was issued a Verbal Reprimand, which was also confirmed appropriate by the OPCC.

[REDACTED]

The Respondent was involved in three incidents where he had reversed his police vehicle, striking automobiles behind him.

Public Trust

The Respondent was stopped at a red light when he heard a dispatch of a "theft in progress". The Respondent believed he

***Damage to Police Property
(2008-4233)***

was the closest unit available, and when he reversed, he struck the vehicle behind him resulting in minor damage to both vehicles, but no injuries. The Respondent was given advice as to future conduct.

The second incident involved the Respondent watching a residence where a search warrant was being executed. Traffic was attempting to gain access to the driveway the Respondent was blocking. The Respondent reversed two car-lengths and struck an unoccupied vehicle. There were no injuries but minor damage was incurred to both vehicles.

The third incident involved the Respondent driving on routine patrol when the vehicle in front of him stopped suddenly to avoid hitting the pedestrians using the crosswalk. The Respondent rear-ended the vehicle resulting in minor damages but no injuries.

The Department's Professional Standards Section requested an Order for Investigation with respect to the Respondent's three motor vehicle accidents involving police vehicles. The OPCC granted an Order. The three allegations of damage to police property against the Respondent were substantiated. The Respondent agreed to a pre-hearing conference where he accepted the disciplinary measure of a Written Reprimand. The OPCC reviewed the final investigation and confirmed that a Written Reprimand was appropriate.

Public Trust

***Discreditable Conduct
(2008-4294)***

The Complainant alleged that she was retrieving some items from her car after arranging for a friend to pick her up, when the Respondent pulled up next to her and asked if she had been drinking. The Complainant admitted that she had and provided her personal information. The Complainant admitted that she had multiple drinking and driving charges and knew better than to drive. The Complainant entered her automobile to sit in the driver's seat. She had her keys in her lap and was talking on the phone to her ride. The Respondent approached her again and rudely wrote her a ticket, refusing to listen to her explanation. The Complainant was upset that the Respondent had her car towed, considering she is a student with limited means.

The investigation confirmed that the Respondent saw the Complainant stumble to her car. The Respondent had asked if she had been drinking, to which she responded yes. The Respondent warned the Complainant that she should not be

driving. A short time later the Respondent found the Complainant seated in her vehicle. The Complainant admitted to the Respondent that she had intended to drive that evening, that she had consumed 5 vodka and soda, and that she had been previously convicted for impaired driving.

The discipline authority found that the Respondent acted within his lawful duties when he issued the Complainant a 24-hour roadside suspension and had her vehicle towed. The discipline authority summarily dismissed the complaint. The OPCC confirmed the Discipline Authority's decision.

A man contacted the OPCC reporting that his female friend was assaulted by her landlady. His friend attended the police department to report the assault, and while there, she became intimidated and denied the assault having taken place. The man further advised that his friend has a mental illness and needs assistance coping with day-to-day situations. The man believed that his friend was interrogated by the police when she reported the incident and that is why she changed her mind and denied that the assault had occurred. The man further alleged that the investigator had told him that he wasn't a credible witness. It is his opinion that the investigator discontinued the investigation on those grounds.

Non-Lodged

Not Characterized
(2008-4326)

The OPCC opened a Non-Lodged file, as the man chose not to file a Form 1 Record of Complaint. The department investigated the incident and interviewed a number of witnesses. The investigation revealed that the landlady ran a foster home and the female's allegation of being assaulted by the landlady was fabricated. Due to the female's mental illness, charges of public mischief were not forwarded to Crown Counsel. The Department notified the man of the outcome of their investigation. The OPCC reviewed the investigation, including the numerous witness statements and concluded the file as reviewed and closed.

The Complainant alleged that when he was arrested and taken to cells, the Respondent told him, "...that his kind was not welcomed ..."

Public Trust

Discreditable Conduct
(2008-4336)

The Complainant alleged that he was told to take off his clothes. The Complainant refused. He was then told to kneel, with his hands behind his back and he was then taken to the

floor, dragged, and kicked in the face several times. One Respondent allegedly stated that he wanted to break the Complainant's arm. When the Complainant woke the next morning, he was in distress and was taken to the hospital for head trauma.

An investigation was conducted and it was determined that the Respondents had arrested the Complainant because he was wanted on a Canada-wide warrant for parole suspension. The Complainant was advised that he would be strip-searched and when this took place, the Complainant resisted and a physical altercation took place between the Complainant and one Respondent. The Respondent needed assistance and more officers became involved in the altercation as they tried to gain control of the Complainant. The Complainant has suffered what appeared to be minor injuries during the altercation and Paramedics were called. They examined the Complainant's injuries and advised that the Complainant could remain in cells and did not need to be hospitalized. The next morning the Complainant complained about pain, and he was taken to a hospital where he was examined again and released with minor pain medication. He was later transferred to a federal institution.

The investigator determined that the force used by the Respondents was appropriate for gaining the Complainant's compliance. The Complainant suffered some injuries to his shin and the left side of his face. The Complainant's claim that he was "kicked in the face" was found to be untrue and was not supported by the video evidence.

The OPCC reviewed the entire investigation report, including witness statements and the video evidence, and confirmed the Discipline Authority's decision that the allegations against the Respondents be unsubstantiated. The complaint did generate recommendations that the department's existing policy regarding strip searches be updated and amended with current case law.

Public Trust

*Corrupt Practice
Improper Disclosure of
Information
(2008-4125)*

The Respondent disclosed to his supervisor that he had queried an employee from his private business on the police database PRIME. The employee had not reported to work and the Respondent was concerned for her safety. The Respondent was advised that his PRIME query was unrelated to his duties as a police officer.

An investigation was conducted and it was determined that the Respondent had, between 1995 and 2008, made numerous queries using CPIC (Canadian Police Information Centre) and PRIME for non-work related purposes.

The Respondent, when speaking with the Investigator, was remorseful and accepted full responsibility for his actions. He acknowledged that what he had done was wrong. The discipline authority deemed the alleged disciplinary defaults of Corrupt Practice were substantiated.

A Pre-Hearing Conference was held wherein the Discipline Authority substantiated Corrupt Practice relating to the unauthorized queries between 1995 to 2008. Improper Disclosure of Information was also substantiated covering the same time period. The OPCC received a copy of the Report on Disciplinary or Corrective Measures following a Pre-hearing Conference. The Respondent had accepted a two day suspension without pay for Corrupt Practice and an additional one day suspension for the Improper Disclosure of Information. Several aggravating and mitigating factors were considered by the Discipline Authority in deciding the appropriate discipline. The OPCC was satisfied that no further investigation was necessary and that a Public Hearing was not required.

The Complainants alleged that the Respondents had conducted a drug raid on their tenant's residence. The tenant was arrested but the Complainants felt that the Respondents could have knocked on their tenant's door rather than breaking down the entry and bedroom door. The Complainants have lost money because the tenant could not pay his rent as his bank accounts were frozen, and he had abandoned his residence because, he claimed, the police told him to leave the area. The Complainants wanted the department to reimburse them for the costs of the damaged doors.

Service or Policy
(2008-4168)

The investigation revealed that the Respondents, along with the Municipal Integrated Emergency Response Team (MIERT), had served a judicially authorized search warrant. Due to the risks associated with the suspects, (the tenants) as well as the need to preserve evidence, a dynamic or no knock entry was sought by the investigators, which was granted by the Justice of the Peace.

Three persons were arrested and charged with possession for the purposes of trafficking and possession of prohibited weapons. A number of items which would justify the investigator's request for this mode of entry were found within.

The landlords for the three accused (tenants), sought compensation for the front door, as well as an interior door they allege was damaged by MIERT. The department's policy in regards to compensation where damage to property results from police action was reviewed and the department denied the Complainant's compensation request. The discipline authority felt that this complaint also involved an allegation that the department's Policies or Procedures dealing with Damage to Private Property were inappropriate or inadequate; therefore, the Discipline Authority characterized this complaint as a Service or Policy Complaint.

The OPCC agreed with the characterization and provided the Chair of the Police Board with a copy of the complaint.

The Chair reported that the Police Board reviewed the current policy which related to damage to private property resulting from police action and would not be recommending any changes. Based on all the available evidence, the Police Board decided that the police acted in a reasonable manner and that the policies in place were sufficient.

**Non-Lodged
(2008-4454)**

The Complainant did not complete a Form 1 Record of Complaint, opting instead to write a letter to the OPCC expressing his concerns that his Post Second World War Hunting Rifle had been seized by a police officer.

The OPCC opened a non-lodged complaint file and forwarded the Complainant's correspondence to the department's professional standards section. It was determined that while the Complainant was away on vacation, the police had attended his son's residence concerning an incident with his son and the use of a weapon. When the son was apprehended, the Complainant's rifle was also seized.

The professional standards section contacted the Complainant and arrangements were made for the return of the Complainant's rifle. The Complainant was happy with his dealings with the professional standard section and did not

pursue his complaint further. The OPCC closed their non-lodged file as **reviewed and closed**.

The OPCC received information from the department's professional standards section outlining allegations of professional misconduct by the Respondent. It was alleged that while the Respondent was on-duty and was assisting other police members in the execution of a search warrant for a marihuana grow operation, he/she had taken a drug exhibit (a fan) and failed to register the item into the seized exhibit log.

Public Trust

Neglect of Duty
(2008-4419)

At the Chief Constable's request, the Police Complaint Commissioner ordered an investigation into the alleged misconduct of removing a crime scene exhibit during the execution of a search warrant. Following a comprehensive investigation, the Discipline Authority substantiated the alleged disciplinary default of Neglect of Duty. The Respondent was issued discipline in the form of a verbal reprimand with direction to review policy regarding the seizure of property.

After reviewing the entire investigation, the OPCC confirmed that the Discipline Authority's decision and the discipline imposed were appropriate with respect to the circumstances.

The Complainant filed a Form 1 Record of Complaint alleging that the Respondent had trespassed on his property and threatened to charge the Complainant with a crime. The Complainant alleged that the Respondent did not listen to his explanation of the facts. The Complainant also alleged that in relation to this incident, there was a police report that contained inconsistencies and unanswered questions. As well, the Respondent had given the department a demand letter to satisfy a debt and the department had yet to deliver the letter to the other party involved.

Public Trust

Discreditable Conduct
(2008-4125)

The Professional Standards Section completed an investigation into the Complainant's allegations. There was no evidence to support the allegations of misconduct against the Respondent. The investigation revealed that the Respondent had attended the Complainant's residence to warn him that he was not to harass or stalk his ex-girlfriend. The Respondent hadn't

threatened the Complainant; he had warned him that should he continue to harass his ex-girlfriend, criminal harassment charges could be filed against him. The Discipline Authority found that the Respondent had appropriately provided the Complainant with information about the possible consequences for his behaviour should it continue.

The OPCC reviewed the investigation file and confirmed the Discipline Authority's decision and closed their file as Summarily Dismissed.

Monitor
(2008-4268)

The officers arrested an individual for SIPP (State of Intoxication in a Public Place). Unbeknownst to the officers, the individual had suffered an epileptic seizure. This incident was thoroughly investigated at the time and the Professional Standards Section did confirm that the individual had suffered from an epileptic seizure. The BC Epilepsy Society gave the investigator a package of information brochures which were delivered to the department's training section.

Later, when applying for a job and needing a background police check, the individual found that a PRIME entry still contained the erroneous information regarding the SIPP arrest. The Complainant filed a Form 1 Record of Complaint to have the PRIME entry removed.

Following discussions between the investigator and the OPCC, it was agreed that the Complainant's Form 1 did not identify any disciplinary defaults, conduct issues or policy issues. The OPCC opened a Monitor file until the matter could be resolved. The Professional Standards investigator was in contact with the Complainant. The investigator provided the Complainant with a letter outlining the circumstances of the incident, and addressing to any potential employer that he be contacted so the information contained in the Criminal Record Form could be explained. The Complainant formally withdrew his complaint and the OPCC concluded its file as reviewed and closed.

Public Trust
Neglect of Duty
(2008-4165)

The OPCC received information from the department's Professional Standards Section outlining allegations of professional misconduct involving the Respondent's failure to show for a scheduled Crown Counsel interview, as well as failing to testify at an impaired driving trial after having been

notified. As a result of the Respondent's non-attendance, Crown Counsel had to call no evidence resulting in the acquittal of the accused.

The investigation confirmed that the Respondent had failed to attend a Crown Counsel interview and had also failed to attend court to testify. The Discipline Authority deemed that the allegation of Neglect of Duty had been substantiated. At the Pre-Hearing Conference the Respondent received a verbal reprimand.

The OPCC reviewed the investigation and confirmed the Discipline Authority's decision and the disciplinary and corrective measures imposed.

The Complainant alleged that his friend's car was illegally searched and when the Respondent had applied handcuffs, his watch was damaged. The Complainant further alleged he received injuries to his back and wrist.

Public Trust

*Abuse of Authority
(2008-4454)*

The Professional Standards investigator determined that a plainclothes police officer had checked the license plate of the vehicle on the police databases. The officer believed that the occupants were involved in some type of criminal or drug activity. The plainclothes officer requested that the vehicle be checked by a patrol unit and contacted police dispatch.

The Respondents conducted a vehicle stop. The Complainant, his friend and his friend's vehicle were searched on a belief that reasonable and probable grounds existed that the car's occupants were in possession of a controlled substance. Despite the officers' suspicions, no controlled substances were found.

The OPCC reviewed the investigation and noted that despite the Professional Standards investigator's requests for the Complainant to provide a statement, the Complainant ignored these requests. The investigator continued with his investigation, relying upon the limited details of the complaint and the evidence of the Respondents. The investigator recommended to the Disciplinary Authority that this complaint be concluded as unsubstantiated; and also recommended that both Respondents review relevant case law on "arrest versus detention" and "search and seizure".

The OPCC felt that the recommendation that both Respondents review relevant case law was appropriate. The OPCC was also satisfied that no further investigation was necessary nor was a public hearing warranted. The OPCC closed its file as unsubstantiated.

Public Trust

**Improper Off-Duty Conduct
(2008-4216)**

The department's Deputy Chief was informed by an RCMP Staff Sergeant that a member of his department, while off-duty, had used profane language towards an RCMP officer after being issued a ticket for inappropriate driving. As well, the Respondent had identified himself as a police officer during the traffic stop. The department initiated a *Police Act* investigation into the incident.

A Consent Letter informally resolving the complaint was signed by the parties. Terms of the Consent Letter included the Respondent providing an explanation for his conduct and acknowledging that portions of his comments to the RCMP officer were inappropriate.

The Police Complaint Commissioner wrote to the Discipline Authority advising that he was opposed to the informal resolution of the profanity allegation. Furthermore, the Commissioner pointed out that the more serious allegation of the Respondent using his position as a police officer for personal gain hadn't been dealt with. The Police Complaint Commissioner requested an investigation be conducted into this allegation. The allegation was investigated and was substantiated. A pre-hearing conference was held with the Respondent being given disciplinary and corrective measures in the form of a Written Reprimand and a formal letter of apology.

The OPCC reviewed the investigation and decision and was of the view that a public hearing in these circumstances convened solely to adjudicate the level of discipline imposed on the Respondent would not be in the public interest. The OPCC closed its file as substantiated.

Public Trust

**Neglect of Duty
Discreditable Conduct
(2008-4089)**

The Complainant and his friend were arrested while sleeping in a vehicle. When they were taken to the police department, they were informed that the vehicle was stolen and had been involved in a robbery. The Complainant alleged that all his personal items were seized from the vehicle for investigational

purposes. The Complainant wanted a list of the seized items and his items returned. The alleged default was identified as Neglect of Duty.

An investigation was conducted and it was determined that an exchange of the Complainant's personal effects were passed onto members of the RCMP. The Complainant had also filed a complaint with the Commission for Public Complaints against the RCMP.

In his Notice of Decision, the Discipline Authority confirmed that a second disciplinary default of Discreditable Conduct had been identified based on information uncovered during the investigation. The investigation revealed that the lack of completeness of the Prisoner Record by the Respondent officers constituted a breach of the department's policy regarding care and control of prisoners and their effects. As such, some of the effects the Complainant alleged were still missing could not be found.

Due to discrepancies between the Complainant's recollection of the facts and the Respondent officers' recollections, the allegation of Neglect of Duty could not be proven; however, the Discipline Authority found the second allegation of Discreditable Conduct substantiated. Advice as to future conduct would be noted in the Respondents officers' personnel files, and the Professional Standards investigator also reminded all field officers in writing of the importance of adhering to the Departmental policies regarding the handling of prisoner effects.

The Complainant requested a review from the OPCC, and after reviewing the complete investigation and decision of the Discipline Authority, the Police Complaint Commissioner was satisfied that the circumstances of this complaint did not warrant a public hearing or further investigation. A public hearing was also not the proper medium for a Complainant to pursue monetary compensation from the police department. The Complainant was advised that should he wish to continue to pursue monetary compensation; he should seek legal advice from a lawyer.



Introduction

When a complaint is received at the OPCC, a file is opened and assigned to an analyst. All complaints are reviewed by the assigned analyst and broken down into its individual allegations. A complaint file often contains more than one allegation involving one or more officers.

The following is an example of how 1 complaint file can result in multiple allegations and results:

A Complainant states that 3 officers entered his residence without a warrant and that 2 of the officers used excessive force in order to handcuff him. The Complainant further states that 1 officer unlawfully seized property that was subsequently lost.

The assigned analyst would review the allegations contained within the circumstances and identify the following potential disciplinary defaults:

- **Abuse of Authority** (unlawful entry) involving 3 Respondent officers
- **Abuse of Authority** (excessive force) involving 2 Respondent officers
- **Abuse of Authority** (unlawful seizure of property) involving 1 Respondent officer
- **Neglect of Duty** (Improper handling & care of seized property) involving 1 Respondent officer

Following the investigation, there may be differing outcomes to the identified disciplinary defaults. Using the example from above, an allegation of Abuse of Authority (excessive force) may be found substantiated against the 2 officers, with the remaining allegations unsubstantiated. Similarly, the disciplinary or corrective measures imposed against the two officers may be different depending on the circumstances.

All these variables are recorded by the OPCC, thereby allowing the Commissioner to present reports and statistics with greater accuracy and identify emerging trends in certain conduct.

Complaints Received in 2008

Complaint Files Opened (January 1 st – December 31 st , 2008)					
	2008	2007	2006	2005	2004
Abbotsford	28	29	16	14	19
Central Saanich	2	3	4	5	2
BCCFSEU	0	1	1	0	1
Delta	16	16	23	14	8
Nelson	8	10	3	1	7
New Westminster	45	17	25	20	22
Oak Bay	3	2	1	6	1
Port Moody	7	3	3	4	4
Saanich	35	28	28	35	21
SCBCTAPS ¹	28	18	15	N/A	N/A
Stl'atl'imx	1	0	0	1	0
Vancouver	214	244	269	220	182
Victoria	81	80	98	91	93
West Vancouver	13	25	17	15	12
TOTAL:	481	476	503	426	372

¹ As of December 5, 2005, the South Coast British Columbia Transportation Authority Police Service (SCBCTAPS) became an officially recognized police agency pursuant to the Police Act.

A Police Act investigation pursuant to Division 4 (Public Trust Complaints) may be initiated by:

- Receipt of a Form 1 Record of Complaint (submitted by a citizen or, in some cases, by a senior officer for administrative purposes); or
- The Police Complaint Commissioner may order an investigation pursuant to section 55(3) of the *Police Act*. This may be at the request of a department, or as a result of information received by the Commissioner that is deemed to be in the public interest.

**Ordered
Investigations
[s.55(3) of the Police
Act]**

In 2008, there were **65** files that were initiated by way of an Order for Investigation issued by the Commissioner. Of those 65 files, **64** were at the request of the originating police department.

In addition to files that are opened as a result of a Form 1 Record of Complaint being submitted or a Commissioner's Ordered Investigation, the OPCC also opens files that may potentially become formal *Police Act* complaints.

Monitor Files

Monitor Files are opened when information is received by the OPCC from the police or other sources including media reports that *may* require an investigation pursuant to the *Police Act*. These are typically incidents that are serious in nature or that have generated media attention, but no potential disciplinary defaults have been identified to date. These files are held open until a report is received from the police. The matter is reviewed and a decision is made as to whether an Ordered Investigation is required. If no action is deemed necessary, the file is concluded as "Reviewed & Closed". Of the files opened in 2008, **47** were designated as Monitor Files.

Non-Lodged Files

Non-Lodged Files are those where information is received from a citizen either orally or in writing. The person is advised that in order for the matter to become a formal *Police Act* investigation, they must complete and submit a Form 1 Record of Complaint. If the person declines to submit a Form 1, the matter *may* be investigated depending on the severity of the allegations. **29** files in 2008 were designated as Non-Lodged files. As with Monitor files, if no further action is required, the file is concluded as "Reviewed & Closed".

External Investigations

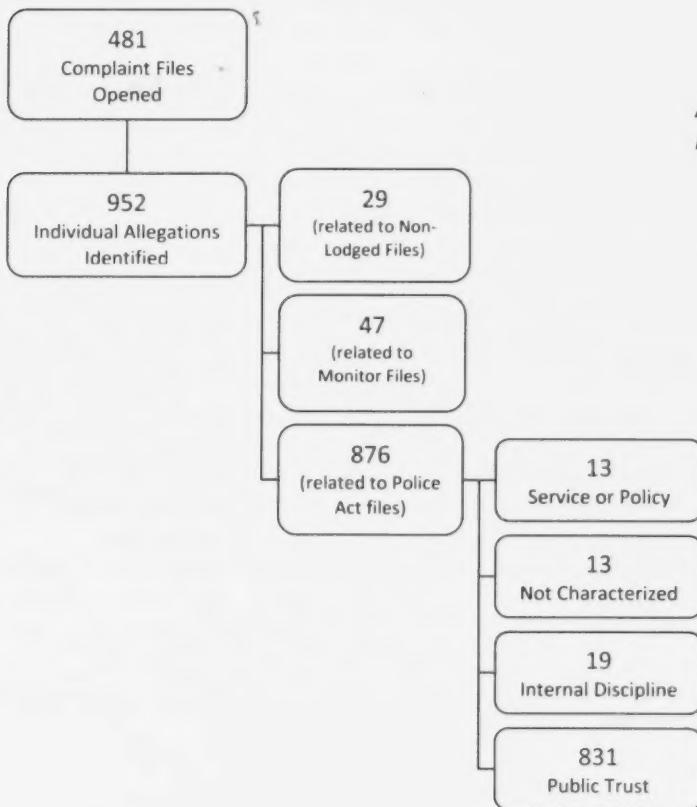
Any complaint, whether it is initiated by receipt of a Form 1 Record of Complaint or is an Ordered Investigation, may be investigated by a police agency other than the police department where the complaint originated. If the Police Complaint Commissioner determines that a potential or perceived bias exists, the investigation may be referred to another police agency, including the RCMP. The Discipline Authority may also request that a complaint be investigated externally. Of the 481 files opened in 2008, **17** were investigated by an external agency.

Characterizing a Complaint

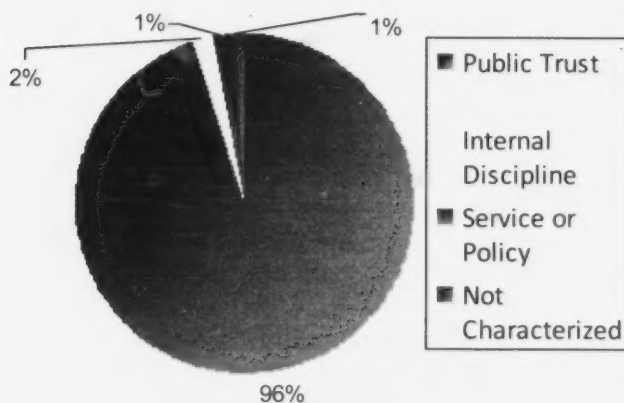
Once a complaint is reviewed and allegations identified, it must then be characterized as one, or more, of the following:

- Public Trust
- Internal Discipline
- Service or Policy

Of the files opened in 2008, the following reflects how they were identified.



Of those 876 allegations identified as *Police Act*, 96% were characterized as Public Trust



Discipline Defaults

The *Code of Professional Conduct Regulation* identifies the various types of "disciplinary defaults" or misconduct for which an officer may be charged. The following tables show the wide range of allegations received by each department in 2008.

It is important to note that the following tables reflect the total number of allegations *received* in 2008. Some of these allegations may be unresolved as they are still subject of ongoing *Police Act* investigations.

(Although the BC Combined Forces Special Enforcement Unit and the St'l'at'imx Tribal Police Service fall under the OPCC's mandate, they are not included on these tables. Where allegations are applicable, they are referenced below the table.)

	TOTALS	Abbotsford	Central Saanich	Delta	Nelson	New Westminster	Oak Bay	Port Moody	Saanich	SCBCTAPS	Vancouver	Victoria PD	West Vancouver
Abuse of Authority (s. 10)													
Discrimination – other	13	1	0	0	0	0	0	0	0	0	7	5	0
Discrimination – racial	8	0	0	0	0	0	0	0	1	3	4	0	0
Excessive Force – Dog	8	1	0	0	0	2	0	0	0	0	5	0	0
Excessive Force – Empty Hand	189	13	0	7	0	14	0	0	6	5	119	25	0
Excessive Force – Handcuffs	9	1	0	0	0	0	0	2	0	2	2	2	0
Excessive Force – Impact Weapon	13	0	0	0	0	0	0	0	0	0	11	0	2
Excessive Force – Neck Restraint	9	8	0	0	0	0	0	0	0	0	1	0	0
Excessive Force – Pepper Spray	1	0	0	0	0	0	0	0	0	0	1	0	0
Excessive Force – Taser	34	4	0	2	0	0	0	0	0	18 ¹	4	6	0
Improper issuing of traffic ticket	8	0	0	0	0	0	0	3	0	0	2	2	1
Profanity / Abusive / Insulting language	12	1	0	0	1	2	0	0	0	0	7	1	0
Rudeness / Discourteous	81	4	1	0	0	3	0	1	9	8	41	14	0
Unlawful arrest	56	7	0	2	2	1	0	4	4	2	22	10	2
Unlawful detention	37	1	0	4	0	4	0	0	0	0	21	7	0
Unlawful search (non-person)	6	0	0	2	0	0	0	2	0	2	0	0	0
Unlawful search (person)	13	0	0	0	0	0	0	0	1	2	10	0	0
Unlawful seizure of property	10	0	0	0	0	3	0	0	0	0	7	0	0

	TOTALS	Abbotsford	Central Saanich	Delta	Nelson	New Westminster	Oak Bay	Port Moody	Saanich	SCBCTAPS	Vancouver	Victoria PD	West Vancouver
No Keyword Identified	7	0	0	0	0	0	0	0	5	0	1	1	0
TOTALS:	514	41	1	17	3	29	0	12	26	42	265	73	5

¹ A 3rd Party Complaint by the BC Civil Liberties Association was lodged regarding the use of Tasers by the TransLink Police force (SCBCTAPS). The OPCC opened 10 subfiles regarding incidents that occurred between August 2007 and February 2008, in addition to a Service & Policy review.

	TOTALS	Abbotsford	Central Saanich	Delta	Nelson	New Westminster	Oak Bay	Port Moody	Saanich	SCBCTAPS	Vancouver	Victoria PD	West Vancouver
Corrupt Practice (s.9):													
Failure to acct for money/property rec'd in course of duty	4	1	0	0	0	0	0	0	0	0	3	0	0
Use of police equip't for personal gain	1	0	0	0	0	0	0	0	1	0	0	0	0
TOTALS:	5	1	0	0	0	0	0	0	1	0	3	0	0

	TOTALS	Abbotsford	Central Saanich	Delta	Nelson	New Westminster	Oak Bay	Port Moody	Saanich	SCBCTAPS	Vancouver	Victoria PD	West Vancouver
Damage to Police Property (s.12):													
Loss / Damage to police property	10	0	0	0	0	8	0	0	0	0	2	0	0
TOTALS:	10	0	0	0	0	8	0	0	0	0	2	0	0

	TOTALS	Abbotsford	Central Saanich	Delta	Nelson	New Westminster	Oak Bay	Port Moody	Saanich	SCBCTAPS	Vancouver	Victoria PD	West Vancouver
Deceit (s.7):													
Misleading / Inaccurate document	11	0	0	0	0	0	0	0	1	0	9	0	1
Misleading / Inaccurate oral statement	3	0	0	0	0	1	0	0	1	0	0	0	1

	TOTALS	Abbotsford	Central Saanich	Delta	Nelson	New Westminster	Oak Bay	Port Moody	Saanich	SCBCTAPS	Vancouver	Victoria PD	West Vancouver
Perjury	1	0	0	0	0	0	0	0	0	0	1	0	0
No Keyword Identified	1	0	0	0	0	0	0	0	0	0	0	0	1
TOTALS:	16	0	0	0	0	1	0	0	2	0	10	0	3

	TOTALS	Abbotsford	Central Saanich	Delta	Nelson	New Westminster	Oak Bay	Port Moody	Saanich	SCBCTAPS	Vancouver	Victoria PD	West Vancouver
--	--------	------------	-----------------	-------	--------	-----------------	---------	------------	---------	----------	-----------	-------------	----------------

Discreditable Conduct (s.5):

Breach of Police Act / Dept policies & standing orders	16	0	0	0	0	5	0	0	0	1	9	0	1
Dangerous driving	4	0	0	0	0	1	0	0	0	0	3	0	0
Disorderly Conduct	15 ¹	0	0	0	0	2	0	0	1	0	7	4	0
Failure to disclose evidence (criminal offences)	1	0	0	0	0	0	0	0	0	0	1	0	0
Oppressive / Abusive	61	2	0	2	2	10	0	0	8	0	25	12	0
Refusal to provide PIN	1	0	0	0	0	0	0	0	0	0	1	0	0
Unauthorized search of police database (Info not disclosed)	2	0	0	0	0	1	0	0	0	0	1	0	0
TOTALS:	100	2	0	2	2	19	0	0	9	1	47	16	1

¹ Stl'at'imx Tribal Police Service had 1 allegation of Disorderly Conduct

	TOTALS	Abbotsford	Central Saanich	Delta	Nelson	New Westminster	Oak Bay	Port Moody	Saanich	SCBCTAPS	Vancouver	Victoria PD	West Vancouver
--	--------	------------	-----------------	-------	--------	-----------------	---------	------------	---------	----------	-----------	-------------	----------------

Improper Disclosure of Information (s.8):

Discloses information knowing false	2	0	0	0	0	0	0	0	0	0	2	0	0
Discloses information recklessly	1	0	0	0	0	0	0	0	0	0	0	1	0
Unauthorized disclosure of police information	10	0	0	1	0	3	0	0	1	0	2	3	0
No Keyword Identified	2	0	0	0	0	0	0	0	0	0	2	0	0
TOTALS:	15	0	0	1	0	3	0	0	1	0	6	4	0

	TOTALS	Abbotsford	Central Saanich	Delta	Nelson	New Westminster	Oak Bay	Port Moody	Saanich	SCBC TAPS	Vancouver	Victoria PD	West Vancouver
Improper Off-Duty Conduct (s.16):													
<i>Asserts / purports authority as police officer</i>	4	0	0	0	0	0	0	0	3	0	1	0	0
<i>Behaviour discreditable to reputation of department</i>	10	0	0	0	0	4	0	0	1	0	1	4	0
TOTALS:	14	0	0	0	0	4	0	0	4	0	2	4	0

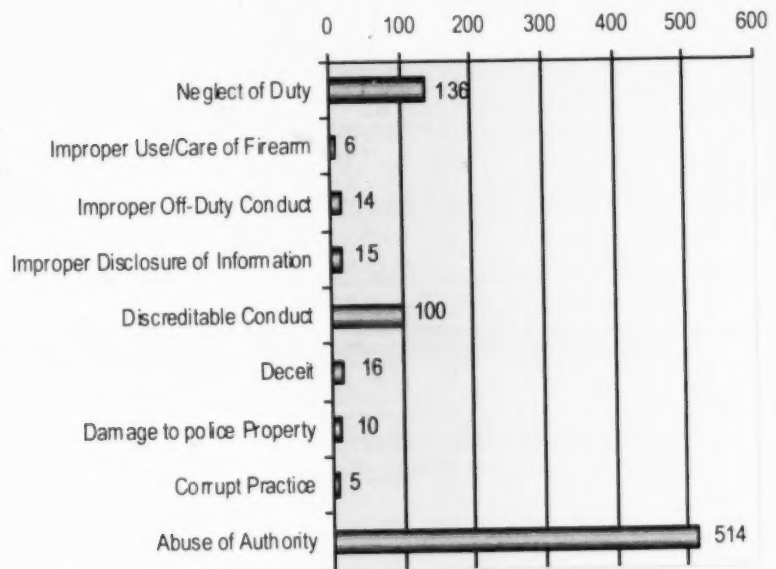
	TOTALS	Abbotsford	Central Saanich	Delta	Nelson	New Westminster	Oak Bay	Port Moody	Saanich	SCBC TAPS	Vancouver	Victoria PD	West Vancouver
Improper Use & Care of Firearm (s.11):													
<i>Accidental Discharge</i>	2	0	0	0	0	0	0	0	0	0	1	1	0
<i>Improper use of firearm (non-person)</i>	1	1	0	0	0	0	0	0	0	0	0	0	0
<i>Unsafe storage (firearm)</i>	3	0	0	0	0	0	0	0	2	0	1	0	0
TOTALS:	6	1	0	0	0	0	0	0	2	0	2	1	0

	TOTALS	Abbotsford	Central Saanich	Delta	Nelson	New Westminster	Oak Bay	Port Moody	Saanich	SCBC TAPS	Vancouver	Victoria PD	West Vancouver
Neglect of Duty (s.6):													
<i>Failure to attend court</i>	1	0	0	0	0	0	0	0	0	0	0	0	1
<i>Failure to follow order</i>	3	0	0	0	0	0	0	0	1	0	2	0	0
<i>Failure to provide medical treatment</i>	3	1	0	0	0	0	0	0	0	0	2	0	0
<i>Inadequate investigation</i>	88 ¹	1	0	0	2	10	2	1	8	0	58	4	1
<i>Inadequate documentation / records / notes</i>	7	0	0	0	0	1	0	0	0	0	6	0	0
<i>Improper care/handling of seized property</i>	26	0	0	1	0	0	0	0	3	0	17	5	0
<i>Improper issuing of process</i>	2	0	0	0	0	0	0	0	0	0	2	0	0
<i>Leave duty w/o permission</i>	3	2	0	0	0	0	0	0	0	0	0	1	0

	TOTALS	Abbotsford	Central Saanich	Delta	Nelson	New Westminster	Oak Bay	Port Moody	Saanich	SCBC TAPS	Vancouver	Victoria PD	West Vancouver
No Keyword Identified	3	0	0	0	0	0	0	0	0	0	3	0	0
TOTALS:	136	4	0	1	2	11	2	1	12	0	90	10	2

¹ Stl'atl'imx Tribal Police Service had 1 allegation of Inadequate Investigation.

**Allegations received
in 2008**



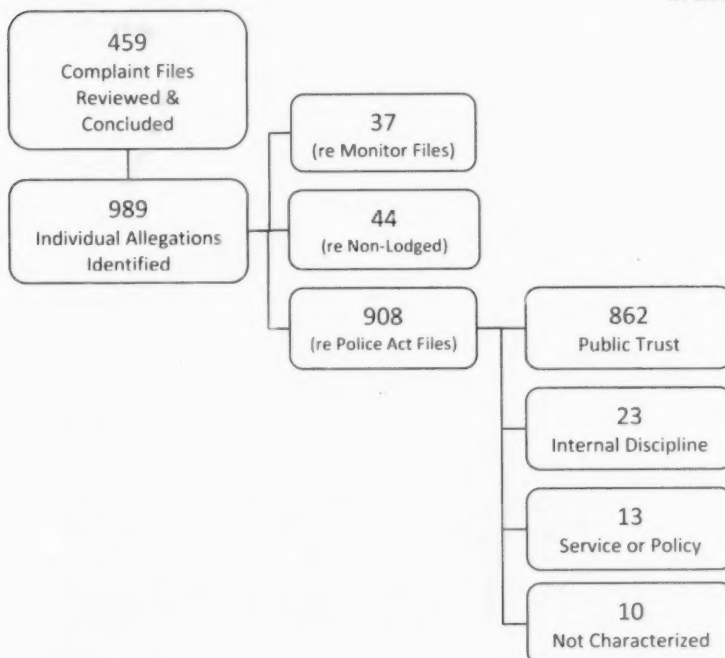
Complaints Concluded in 2008

Complaint Files Reviewed & Concluded (January 1st – December 31st, 2008)

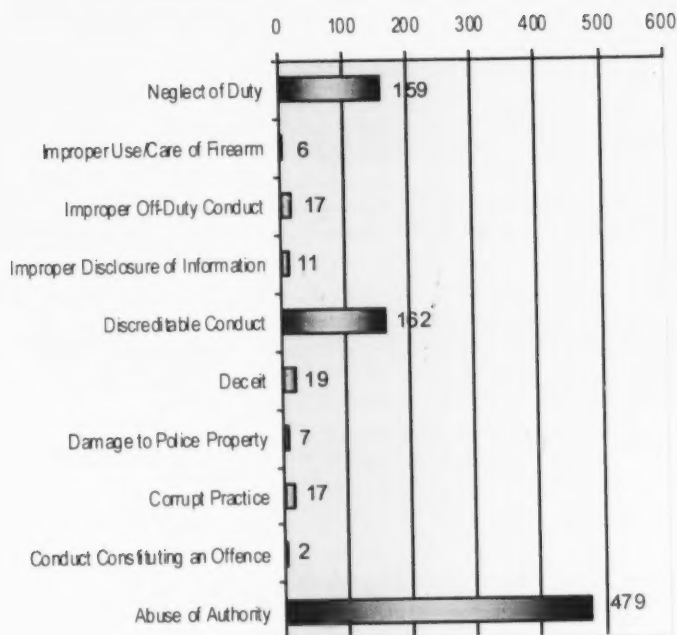
	2008	2007	2006	2005	2004
Abbotsford	21	34	13	11	20
Central Saanich	4	2	4	4	7
BCCFSEU	1	0	0	1	0
Delta	21	20	14	11	10
Nelson	7	8	1	8	2
New Westminster	36	17	24	21	21
Oak Bay	2	3	3	4	1
Port Moody	4	4	5	2	6
Saanich	32	24	32	32	17
SCBCTAPS ¹	11	17	3	N/A	N/A
Stl'atl'imx	1	0	1	0	0
Vancouver	209	278	273	183	209
Victoria	93	66	100	88	89
West Vancouver	17	20	9	16	10
TOTAL:	459	493	482	381	392

Of those **459** files reviewed and concluded, **989** individual allegations were identified.

Complaints Concluded in 2008



Allegations Concluded in 2008



Allegations may be concluded as follows:

Withdrawn

A Complainant may withdraw his or her complaint at any time during the process. The Commissioner may, if it is in the public interest, may order that the investigation continue.

Reviewed & Closed

Where it is determined that there are no issues that require a *Police Act* investigation, the files are concluded as "Reviewed and Closed". Service or Policy complaints are also concluded in this manner.

Informal Resolution

Where the allegations are appropriate, a complaint may be resolved by the signed agreement of the Complainant and the Respondent officer(s). This is facilitated by the assigned investigator.

Decisions

Mediation The same principals as an informal resolution, however the process is overseen by a professional mediator.

Summarily Dismissed A complaint may be summarily dismissed if:

- there is no likelihood that further investigation would reveal evidence to support a disciplinary default;
- the incident or event in question occurred more than 12 months prior to the filing of the complaint; and/or
- the allegation(s) is frivolous and/or vexatious.

Not Substantiated Following a complete investigation, there is no evidence upon which to substantiate the allegations. The standard of proof in *Police Act* proceedings is based on the balance of probabilities.

Substantiated Following a complete investigation, based on a balance of probability, there is evidence upon which to substantiate the allegation(s). Following a finding of "Substantiated", corrective and/or disciplinary measures are imposed.

The following tables reflect the manner in which allegations were concluded by individual departments. All decisions have been reviewed and confirmed by the OPCC.

	TOTALS	Withdrawn	Reviewed & Closed	Informally Resolved	Mediated	Summarily Dismissed	Not Substantiated	Substantiated
Abuse of Authority (s.10)								
Abbotsford	11	2	0	1	0	3	5	0
Delta	23	0	0	0	0	0	14	9
Nelson	15	0	0	0	0	2	13	0
New Westminster	33	0	0	0	0	2	28	3
Oak Bay	3	0	0	0	0	3	0	0
Port Moody	10	0	0	0	0	0	10	0
Saanich	25	1	0	1	1	7	14	1
SCBCTAPS	12	1	0	0	0	0	11	0

	TOTALS	Withdrawn	Reviewed & Closed	Informally Resolved	Mediated	Summarily Dismissed	Not Substantiated	Substantiated
Vancouver	246	19	0	10	0	15	197	5
Victoria	92	4	1	11	0	20	55	1
West Vancouver	9	0	0	0	0	0	7	2
TOTALS:	479	27	1	23	1	52	354	21

Conduct Constituting an Offence (s.14)

Vancouver	2	0	0	0	0	0	1	1
TOTALS:	2	0	0	0	0	0	1	1

Corrupt Practice (s.9)

Central Saanich	1	0	0	0	0	0	0	1
Delta	1	0	0	0	0	0	1	0
Saanich	1	0	0	0	0	0	0	1
Vancouver	13	0	0	0	0	1	12	0
West Vancouver	1	0	0	0	0	0	0	1
TOTALS:	17	0	0	0	0	1	13	3

Damage to Police Property (s.12)

New Westminster	7	0	0	0	0	0	0	7
TOTALS:	7	0	0	0	0	0	0	7

Deceit (s.7)

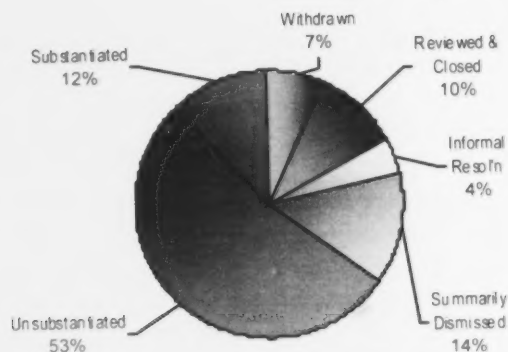
Abbotsford	1	1	0	0	0	0	0	0
Central Saanich	1	0	0	0	0	0	0	1
Delta	2	0	0	0	0	0	2	0
Nelson	1	0	0	0	0	0	1	0
New Westminster	1	1	0	0	0	0	0	0
Saanich	3	2	0	0	0	0	1	0
Vancouver	8	0	0	0	0	1	6	1
Victoria	1	0	0	0	0	0	1	0
TOTALS:	18	4	0	0	0	1	11	2

Discreditable Conduct (s.5)

Abbotsford	7	0	0	2	0	0	5	0
Central Saanich	1	0	0	0	0	0	0	1
Delta	8	1	0	0	0	3	4	0
Nelson	2	0	0	0	0	0	1	1
New Westminster	28	2	0	1	0	2	15	8
Saanich	9	0	0	2	0	6	1	0
SCBCTAPS	2	0	0	1	0	0	0	1
Vancouver	55	3	0	5	0	17	23	7
Victoria	47	10	0	4	0	12	18	3
West Vancouver	2	0	0	0	0	0	0	2

	TOTALS	Withdrawn	Reviewed & Closed	Informally Resolved	Mediated	Summarily Dismissed	Not Substantiated	Substantiated
TOTALS:	161	16	0	15	0	40	67	23
Improper Disclosure of Information (s.8)								
Central Saanich	1	0	0	0	0	0	0	1
New Westminster	3	3	0	0	0	0	0	0
Saanich	1	0	0	0	0	0	0	1
Vancouver	2	0	0	0	0	1	1	0
Victoria	4	1	0	0	0	1	2	0
TOTALS:	11	4	0	0	0	2	3	2
Improper Off-Duty Conduct (s.16)								
Delta	1	0	0	0	0	0	0	1
New Westminster	1	0	0	0	0	0	0	1
Vancouver	10	0	0	0	0	0	3	7
Victoria	3	0	0	0	0	0	0	3
West Vancouver	2	0	0	0	0	0	1	1
TOTALS:	17	0	0	0	0	0	4	13
Improper Use or Care of Firearms (s.11)								
Delta	1	0	0	0	0	0	0	1
New Westminster	1	0	0	0	0	0	0	1
Saanich	2	0	0	0	0	0	0	2
Vancouver	2	0	1	0	0	0	0	1
TOTALS:	6	0	1	0	0	0	0	5
Neglect of Duty (s. 6)								
Abbotsford	8	1	0	0	0	0	7	0
Central Saanich	1	0	0	0	0	0	0	1
Delta	3	0	0	0	0	0	1	2
Nelson	1	0	0	0	0	1	0	0
New Westminster	9	1	0	1	0	0	2	5
Port Moody	1	0	0	0	0	0	1	0
Saanich	11	0	0	0	0	3	8	0
SCBCTAPS	2	0	0	0	0	0	0	2
Vancouver	86	11	0	3	0	21	46	5
Victoria	21	5	0	1	0	2	6	7
West Vancouver	16	0	0	0	0	0	0	16
TOTALS:	159	18	0	5	0	27	71	38¹

* St/atl'imx Tribal Police Service had 1 substantiated allegation of Neglect of Duty



Corrective / Disciplinary Measures

Once a default has been substantiated, the Discipline Authority must then determine the appropriate corrective and/or disciplinary measure to impose on the officer. The *Code of Professional Conduct Regulation* sets out the aggravating and mitigating factors that must be considered by the Discipline Authority, and provides guidance on imposing effective corrective or disciplinary measures. Where circumstances are appropriate, and by doing so, the organizational effectiveness of the department and the public confidence in the administration of police discipline is not compromised, corrective measures are preferred over punitive measures. The primary goal of the *Code* is to ensure that the misconduct committed is not repeated nor continued. Corrective measures seek to address the problem and provide training or direction to ensure that the officer understands why the particular misconduct is unacceptable and how to improve his or her performance as a police officer.

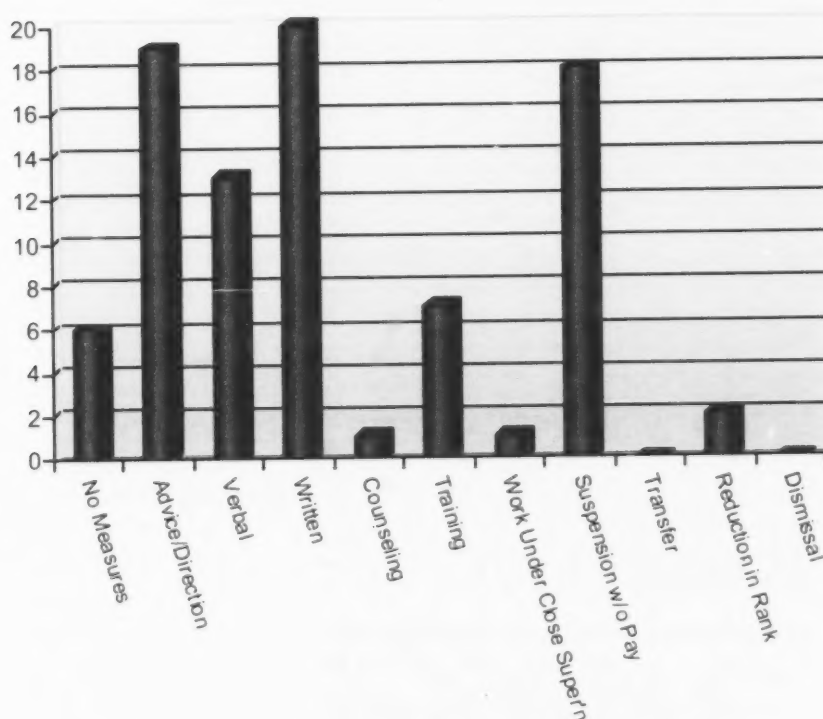
The *Code* provides the following measures:

- Verbal reprimand
- Written reprimand
- Direction to undertake professional counselling
- Direction to undertake special training or re-training
- Direction to work under close supervision
- Suspension without pay (up to 5 scheduled working days)
- Transfer or re-assignment
- Reduction in rank
- Dismissal

The Discipline Authority may also determine that although a default has been substantiated, neither corrective nor disciplinary measures are warranted or that "Managerial Advice" or "Advice as to Future Conduct" is sufficient to ensure that the error or behaviour is not repeated in future.

In circumstances where the officer has either retired or resigned from the department prior to the completion of the disciplinary process, the disposition recorded is "Retired / Resigned", with the *proposed* disciplinary measure listed in the notes. In 2008, the disposition for **30** allegations was listed as "Retired / Resigned". (Please note this is 30 *allegations*, not 30 police officers.)

In 2008, the following corrective and disciplinary measures were imposed:



The above table does not reflect if the officer received a combination of disciplinary and corrective measures. For example, an officer often will receive in addition to the punitive measure, a direction to undertake further training or counselling. The following list provides a more detailed explanation of how measures were imposed in relation to the misconduct committed.

Central Saanich Police Service

Breach of Police Act / Department Policies & Standing Orders	Written Reprimand	
Leave Duty Without Permission	Member Suspended	1-day suspension
Misleading or inaccurate document	Member Suspended	- 2.5 day suspension - Repayment of overtime claim - Direction to take next available police ethics course
Unauthorized Disclosure of Police Information	Member Suspended	1-day suspension
Use of Police Equipment for Personal Gain	Member Suspended	2-day suspension

Delta Police Department

Asserts/purports authority as police officer off-duty	Resigned/retired	
Excessive force – empty hand	Additional Training	
Excessive force – empty hand	Member suspended	1-day suspension Direction to undertake special training
Excessive force – empty hand	Additional training	
Improper care/handling of seized property	Additional training	
Inadequate investigation	Managerial Direction	
Unlawful detention	Managerial Direction	
Unsafe Storage of Firearm	Managerial Direction	

Nelson Police Department

Oppressive/abusive conduct	Verbal Reprimand	Advice as to future conduct
----------------------------	------------------	--------------------------------

New Westminster Police Service

Accidental Discharge of Firearm	Member Suspended	1-day suspension
Behaviour discreditable to reputation of the department	Written Reprimand	
Breach of Police Act / Department Policies & Standing Orders	Advice as to Future Conduct	
Breach of Police Act / Department Policies & Standing Orders	Advice as to Future Conduct	
Breach of Police Act / Department Policies & Standing Orders	No Measures Warranted	
Dangerous Driving	Member Suspended	- 2-day suspension - Undertake review of EVDO regulations
Inadequate documentation/records/ Notes	Written Reprimand	
Inadequate documentation/records/ Notes	Advice as to Future Conduct	

Inadequate Investigation	Written Reprimand	
Inadequate Investigation	Resigned / Retired	
Inadequate Investigation	Member Suspended	2-day suspension
Loss/Damage to Police Property	Written Reprimand	
Loss/Damage to Police Property	Written Reprimand	
Loss/Damage to Police Property	Written Reprimand	
Loss/Damage to Police Property	Written Reprimand	
Loss/Damage to Police Property	Written Reprimand	
Loss/Damage to Police Property	Written Reprimand	
Loss/Damage to Police Property	Written Reprimand	
Oppressive/Abusive Conduct	Advice as to Future Conduct	
Profanity/Abusive/Insulting Language	Advice as to Future Conduct	
Suppresses a Complaint	Resigned / Retired	
Unauthorized Search of Police Databases (Info not disclosed)	Verbal Reprimand	
Unauthorized Search of Police Databases (Info not disclosed)	Written Reprimand	
Unlawful Detention	No Measures Warranted	

Saanich Police Department

Excessive Force – Empty Hand	Written Reprimand	
Unauthorized Disclosure of Police Information	Member Suspended	1-day suspension
Unsafe Storage of Firearm	Verbal Reprimand	
Unsafe Storage of Firearm	Verbal Reprimand	
Use of Police Equipment for Personal Gain	Member Suspended	2-day suspension

SCBCTAPS

Breach of Police Act / Department Policies & Standing Orders	Verbal Reprimand	
Improper Care/Handling of Seized Property	No Measures Warranted	
Improper Care/Handling of Seized Property	No Measures Warranted	

Stl'atl'imx Tribal Police Service

Disorderly Conduct	Resigned / Retired	Had the officer not resigned, the proposed measure was Advice as to Future Conduct
Inadequate Investigation	Resigned / Retired	Had the officer not resigned, the proposed measure was to review operational policy re statements & theft

Vancouver Police Department

Accidental Discharge of Firearm	Additional Training	
Behaviour Discreditable to Reputation of the Department	Member Suspended	

Behaviour Discreditable to Reputation of the Department	Resigned / Retired	
Behaviour Discreditable to Reputation of the Department	Written Reprimand	
Behaviour Discreditable to Reputation of the Department	Managerial Direction	
Behaviour Discreditable to Reputation of the Department	Resigned / Retired	
Behaviour Discreditable to Reputation of the Department	Counselling	<i>In addition to training in diffusing hostile/volatile situations</i>
Behaviour Discreditable to Reputation of the Department	Verbal Reprimand	
Disorderly Conduct	Verbal Reprimand	
Disorderly Conduct	Written Reprimand	
Disorderly Conduct	Advice as to Future Conduct	
Excessive Force – Taser	Member Suspended	<i>3-day suspension</i>
Improper Care/Handling of Seized Property	Managerial Direction	
Improper Care/Handling of Seized Property	Verbal Reprimand	
Improper Care/Handling of Seized Property	Verbal Reprimand	
Inadequate Investigation	Reduction in Rank	<i>6-month reduction from Sgt to Cst</i>
Misleading/Inaccurate document	Member Suspended	<i>3-day suspension</i>
Non-Cooperation with Police Act Investigation	Resigned / Retired	<i>Had the officer not retired, the proposed measure was Managerial Direction</i>
Unlawful Arrest	Written Reprimand	
Unlawful Arrest	Written Reprimand	

Victoria Police Department

Behaviour Discreditable to Reputation of the Department	Resigned / Retired	<i>Had the officer not resigned, the proposed measure was Dismissal</i>
Behaviour Discreditable to Reputation of the Department	Verbal Reprimand	
Behaviour Discreditable to Reputation of the Department	Resigned / Retired	<i>Had the officer not resigned, the proposed measure was Dismissal</i>
Breach of Police Act / Department Policies & Standing Orders	Resigned / Retired	
Disorderly Conduct	Additional Training	
Disorderly Conduct	Resigned / Retired	<i>Had the officer not resigned, the proposed measure was Dismissal</i>
Excessive Force – Firearm	Resigned / Retired	<i>Had the officer not</i>

		resigned, the proposed measure was Dismissal
Inadequate Documentation/Records/ Notes	Additional Training	
Inadequate Documentation/Records/ Notes	Work Under Close Supervision	
Inadequate Documentation/Records/ Notes	Written Reprimand	
Inadequate Investigation	Managerial Direction	
Inadequate Investigation	Advice as to Future Conduct	- Department wide training re informing and providing persons arrested for SIPP with opportunity to contact legal counsel - Review departmental policy to ensure in compliance
Leave Duty Without Permission	Resigned / Retired	Had the officer not resigned, the proposed measure was 5-day suspension without pay

West Vancouver Police Department

Asserts/Purports Authority as Police Officer While Off-Duty	Written Reprimand	Respondent volunteered to take upcoming police ethics course
Disorderly Conduct	Advice as to Future Conduct	
Excessive Force – Empty Hand	Member Suspended	- 1-day suspension - Direction to undertake conflict resolution training - Direction to undertake remedial training in arrest & control techniques
Excessive Force – Empty Hand	Member Suspended	- 2-day suspension - Direction to undertake conflict resolution training - Direction to undertake remedial training in arrest & control techniques
Failure to Account for Money/Property rec'd in Course of Duty	Resigned / Retired	Had the officer not resigned, the proposed measure was Dismissal
Failure to Attend Court	Verbal Reprimand	
Improper Care/Handling of Seized Property (8 counts)	Resigned / Retired	Had the officer not resigned, the proposed measure was Dismissal
inadequate	Resigned / Retired	Had the officer not

Documentation/Records/
Notes (6 counts)

Inadequate Investigation

Resigned / Retired

*resigned, the proposed
measure was
Dismissal*

*Had the officer not
resigned, the proposed
measure was
Dismissal*



Municipal Police Agencies in British Columbia

Abbotsford Police Department
2838 Justice Way
Abbotsford, BC V2T 3P5
Tel: (604) 859-5225
www.abbotsfordpolice.org

Central Saanich Police Service
1903 Mt. Newton Cross Road
Saanichton, BC V8M 2A9
Tel: (250) 652-4441
www.cspolice.ca

BC Combined Forces
Special Enforcement Unit
Tel: (604) 777-7800
www.ocabc.org

Delta Police Department
4455 Clarence Taylor Crescent
Delta, BC V4K 3E1
Tel: (604) 946-4411
www.deltapolice.ca

SCBC Transportation Authority
Police Service
307 Columbia Street
New Westminster, BC V3L 1A7
Tel: (604) 515-8300
www.gvtaps.bc.ca

Stl'atl'imx Tribal Police Service
22 Retasket Drive, PO Box 488
Lillooet, BC V0K 1V0
Tel: (250) 256-7784

Vancouver Police Department
312 Main Street
Vancouver, BC V6A 2T2
Tel: (604) 717-3535
www.vancouver.ca/police

Nelson Police Department
606 Stanley Street
Nelson, BC V1L 1N4
Tel: (250) 354-3919
www.city.nelson.bc.ca

New Westminster Police Service
555 Columbia Street
New Westminster, BC V3L 1B2
Tel: (604) 525-5411
www.newwestpolice.org

Oak Bay Police Department
1703 Monterey Avenue
Victoria, BC V8R 5V6
Tel: (250) 592-2424
www.oakbaypolice.org

Port Moody Police Department
3051 St. John's Street
Port Moody, BC V3H 2C4
Tel: (604) 461-3456
www.portmoodypolice.com

Saanich Police Department
760 Vernon Avenue
Victoria, BC V8X 2W6
Tel: (250) 475-4321
www.saanichpolice.ca

Victoria Police Department
850 Caledonia Street
Victoria, BC V8T 5J8
Tel: (250) 995-7654
www.victoriapolice.org

West Vancouver Police
Department
1330 Marine Drive
West Vancouver, BC V7T 1B5
Tel: (604) 925-7300
www.westvancouverpolice.ca

*Complaints involving the RCMP
should be directed to:*

Commission for Public
Complaints Against the RCMP
Suite 102, 7337 – 137 Street
Surrey, BC V3W 1A4

Tel: (604) 501-4080
toll-free at 1(800) 665-6878



